IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 111 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

C.I.T., AHMEDABAD.

Versus

B.J. PATEL L/R JIVANLAL

Appearance:

MR BB NAYAK FOR MR MANISH R BHATT for Applicant.

NOTICE NOT RECD BACK for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 09/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue, the following question is referred for our opinion in relation to assessment years 1983-84 and 1984-85 :

"Whether, the Appellate Tribunal is right in law and on facts in allowing the claim of the assessee for deduction of an amount of Rs.10,000/- under sec.80U?"

2 In the statement of case the Tribunal has pointed out that for deciding the matter in favour of the assessee the Tribunal relied on its earlier decision in the case of B.P.Parikh vs. I.T.O.

3 We have heard Mr.B.B.Nayak, learned Counsel for the applicant-revenue. Though served, none appears for the respondent-assessee.

4 Our attention has been invited to the decision of this Court in C.I.T. vs. Bhagwat Prasad P.Parikh, (1999) 239 I.T.R. 645, wherein this Court has confirmed the aforesaid decision of the Tribunal in the case of B.P.Parikh (Supra). The assessee was given deduction under section 80U of Rs.10,000/- on the ground that the assessee was suffering from permanent disability which are mentioned in para 2 of the assessment order. Following the aforesaid decision of this Court in C.I.T vs. B.P.Parikh (Surpa), we are of the view that the Tribunal was right in allowing the claim of the assessee for deduction of amount of Rs.10,000/- under section 80U.

5 We accordingly answer the question in the affirmative i.e. in favour of the assessee and against the revenue.

6 The reference stands disposed of accordingly with no order as to costs.

Sd/- Sd/-

(M.S.Shah,J) (D.A.Mehta,J)

m.m.bhatt